UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,901	03/08/2004	Paul Senn	BCK-001.02	1538

			EXAMINER

207   7590   04/06/2006

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

	EXAMINER
	RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| **Office Action Summary** | Examiner | Art Unit | |
| | Sharad Rampuria | 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 March 2004</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-45</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-45</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>08 March 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
       1.☒ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

I.   The Art Unit location of your application in the USPTO has changed. To aid in

correlating any papers for this application, all further correspondence regarding this application

should be directed to Art Unit 2617.

II.   The current office-action is in response to the application filed on 03/08/2004.

Accordingly, Claims 1-45 are pending for further examination as follows:

Priority

III.   Receipt is acknowledged of papers submitted under 35 U.S.C. 1 19(a)-(d), which papers

have been placed of record in the file.

Oath/Declaration

IV.   The office acknowledges receipt of a properly signed oath/declaration filed on

03/08/2004.

Drawings

V.   The receipt of drawings filed on 03/08/2004 is accepted by examiner.

Information Disclosure Statement

VI.   The Information Disclosure statement (IDS) submitted is in compliance with the

provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure

statements.

Double Patenting

VII.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

VIII.   Claims 1-45 is rejected on the ground of nonstatutory obviousness-type double patenting

as being unpatentable over claims 1-38 of U. S. Patent No. 6704563. Although the conflicting

claims are not identical, they are not patentably distinct from each other because all of the

claimed limitations of the present U.S. Application No. 10/795901 for example, see Claim 1 is

explained in following table, is transparently found in Claim 1 of the U. S. Patent No. 6959183

with obvious wording variations.

Instant Claim of U.S. Application No. 10/795901	*Related Claim of U. S. Patent No. 6704563*
1. A method, comprising:	1. A method for determining a

	communications event, comprising;
Identifying an account balance associated with a request for a communications event,	Identifying a request for the communications event,
Associating a rate plan with the request, the rate plan being associated with at least two rates,	Determining an account balance associated with the request, associating a rate plan with the request,
Computing a rate schedule based on the at least two rates, and, determining a duration of the communications event by comparing the rate schedule to the account balance.	Computing a rate schedule that incorporates changes in the rate plan, comparing the rate schedule to the account balance to determine a maximum allowable length of the communications event,

Also additionally,

IX. Claims 1-45 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 11/258962. Although the conflicting claims are not identical, but they are not patentably distinct from each other because all of the claimed limitations of the present U.S. Application No.

10/795,901 for example, Claim 18is explained in following table, are transparently found in

Claim 14of copending U.S. Application No. 11/258962with obvious wording variations.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

Related Claim of U.S. Application No. 11/258962	*Instant Claim of copending U.S. Application No. 10/795,901*
14. A dynamic communications accounting system, comprising: at least one communications interface for monitoring data characteristic of an on-going communications session;	18. A system, comprising: at least one communications interface to receive information representative of a request to initiate a communications event,
At least one database for storing information representative of rate plans for a plurality of communications service providers, and information associated with a plurality of user accounts; and	At least one database to store: information representative of rate plans for a plurality of communications service providers, each rate plan associated with at least two rates, and information associated with a plurality of accounts, and

At least one processor in communication with the at least one communications interface and the at least one database for identifying account information, stored in the at least one database, associated with at least one user participating in an on-going communications session, for identifying a rate plan, stored in the at least one database, according to characteristics of the on-going communications session monitored at the at least one communications interface, for detecting a threshold event associated with the on-going communications session, and for calculating an updated rate schedule according to the identified account information and the identified rate plan upon the detection of the threshold event associated with the on-going communications session.	At least one processor coupled to the at least one database and the at least one communications interface, to identify an account balance associated with the request, to associate a rate plan with the request, to compute a rate schedule based on the at least two rates from the associated rate plan, and to compare the rate schedule to the account balance to determine a duration for which an accrued cost of the communications event is approximately equal to the account balance.

X.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hutcheson et al. disclose a system of delivering cellular services to the mass market, reducing peak capacity, increasing overall capacity utilization, improving capital utilization, providing an "all-you-can-eat" pricing model, and designing capacity based upon where the users live, work, and play.

Wills et al. disclose a system and method preferably enable the user and/or the responsible party to make payments as the user uses the telecommunication services. The systems and methods may also be employed to provide the user and/or the responsible party with specialized pricing options and other customized services for prerating communication events, such as telephone calls, for prepaying customers are described.

Conclusion

XI.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://portal.uspto.gov/external/portal/pair. Should you have questions on access to

the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free) or *EBC@uspto.gov*.

Sharad Rampuria
Examiner
Art Unit 2617

GEORGE ENG
SUPERVISORY PATENT EXAMINER